IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 700 OF 2006
WITH
CRIMINAL WRIT PETITION NO. 734 OF 2006

Munaf K. Vadgaamaa ..Petitioner

versus

State of Maharashtra & Anr. ..Respondents

Mr. M. Solkar i/b. A. Jambotkar for the Petitioner.

Mrs. A. S. Pai, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
S. A. BOBDE, JJ.

DATE : 11TH JULY, 2006

P.C. :

1. In view of the Judgment of the Supreme Court reported in **(1996) 11 SCC 582 All India Institute of Medical Sciences Employees' Union (Regd.) vs. Union of India & Ors.,** and, also another judgment of the Supreme Court reported in **(2004) 7 SCC 768 Gangadhar Janardan Mhatre vs. State of Maharashtra & ors.** wherein in paragraph 13, the Supreme Court observed that :

"**When the information is laid with the**

> **police, but no action in that behalf is taken, the complainant is given power under Section 190 read with Section 200 of the Code to lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to enquire into the complaint as provided in Chapter XV of the Code. In case the Magistrate after recording evidence finds a prima facie case, instead of issuing process to the accused, he is empowered to direct the police concerned to investigate into offence under Chapter XII of the Code and to submit a report. If he finds that the complaint does not disclose any offence to take further action, he is empowered to dismiss the complaint under Section 203 of the code. In case he finds that the complaint / evidence recorded prima facie discloses an offence, he is empowered to take cognizance of the offence and would issue process to the accused. These aspects have been highlighted by this Court in All India Institute of Medical Sciences Employees Union (Regd.) v. Union of India. It was specifically observed that a writ petition in such cases is not to be entertained."**

the petitioner is at liberty to approach the Magistrate for all necessary reliefs. All contentions are kept open.

2. Petitions disposed of accordingly.

(D.G. DESHPANDE, J.)

(S.A. BOBDE, J.)